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No. 09-1450

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

RICHARD LARIVIERE,
Petitioner,

v.

HELEN LARIVIERE,
Respondent,

On Petition for a Writ of Certiorari to the Massachusetts Supreme Judicial Court

PETITION FOR REHEARING

WILLIAM W. COTTING, ESQ.
Counsel of Record
65 Main Circle
Shrewsbury, MA 01545
(508) 845 6060
wcotting@Cotting.com
Counsel for Petitioner

October 29, 2010

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1. **Whether The Probate Court sanctions, issued ostensibly under Mass. R. Dom Rel. Rule 37(b)(2)(B), prohibiting the Petitioner from opposing any evidence or presenting any evidence at his divorce trial, constitutes a violation of the Petitioner's Fifth Amendment rights against self incrimination and Fourteenth Amendment Rights to due process and a fair trial under the United States Constitution?**

The Massachusetts Appeals Court issued a decision pursuant to rule prohibiting its' use as precedent. Therefore, the Appeals Court allowed the Petitioner to be defaulted in an action, when State

Rules and case law did not provide this as a sanction. Therefore, the Petitioner has not received Due Process and Equal Protection under the law. In addition, the imposition of this sanction unconstitutionally penalized the Petitioner for the exercise of his Fifth Amendment Rights. The failure to rebut Petitioner's assertions after filing a responsive brief is an acknowledgement of the truth of the Petitioner's assertions.

2. **Whether he Massachusetts Appeals Court's judgment, affirmed by the Massachusetts Supreme Judicial Court, is in direct conflict with the holding of a United States Court of Appeals decision concerning an important federal constitutional rights of client privacy, confidentiality and attorney disqualification due to conflicts of interest?**

The Massachusetts Appeals Court issued a decision pursuant to rule prohibiting its' use as precedent. Therefore, the Appeals Court reversed the burden of proof regarding whether one individual must suffer a conflict of interest during a trial, when any other citizen would not have to suffer this intrusion. Therefore, the Petitioner has not received Due Process and Equal Protection under the law. The failure to rebut Petitioner's assertions after filing a responsive brief is an acknowledgement of the truth of the Petitioner's assertions.

3. **Whether the Massachusetts Probate Court's allowance of a post trial motion amending the Divorce Judgment to eliminate a ten million dollar contractual compensation right of the Petitioner 53 days after the Divorce Judgment, in direct violation of the 10 day time limits established by Mass. R. Dom. P. Rules 4(c) and 59(b), constitutes a prejudicial error, manifest injustice and the denial of Petitioner's constitutionally protected property rights without due process and his rights under the Full Faith and Credit Clause pursuant to Article IV section 1?**

The Massachusetts Appeals Court issued a decision pursuant to rule prohibiting its' use as precedent. Therefore, the Appeals Court permitted a violation of its own rules of procedure to amend a judgment rather than vacate a judgment. Therefore, the Petitioner has not received Due Process and Equal Protection under the law because the amendment occurred without the opportunity of the defendant to have a meaningful hearing. The failure to rebut Petitioner's assertions after filing a responsive brief is an acknowledgement of the truth of the Petitioner's assertions.

Respectfully submitted,

WILLIAM W. COTTING, ESQ.
Counsel of Record
65 Main Circle
Shrewsbury, MA 01545
(508) 845 6060
wcotting@Cotting.com

Counsel for Petitioner

October 29, 2010

CERTIFICATE OF COUNSEL

As counsel for the Petitioner I hereby certify that this Petition for Rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44.2.

William W Cotting Esq

William W. Cotting, Esq.
Counsel for Petitioner

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